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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

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BAUDILIO ESPIRITUSANTO,

Petitioner,

*versus*

M. MARTIN,

Respondent.

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CIVIL ACTION NO. 1:11-CV-683

**MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING  
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Petitioner Baudilio Espiritusanto, an inmate confined at the Federal Correctional Institution in Beaumont, Texas, proceeding *pro se*, filed this petition for writ of habeas corpus. The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, for consideration pursuant to applicable laws and orders of this court.

The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge concerning the petition. The magistrate judge recommends the petition be dismissed.

The court has received the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Petitioner filed objections to the Report and Recommendation.

The court has conducted a *de novo* review of the objections asserted by petitioner. After careful consideration, the court is of the opinion that the objections are without merit. In support of his claims, petitioner cites *Bond v. United States*, \_\_\_ U.S. \_\_\_, 131 S.Ct. 2355 (2011). In *Bond*, the Supreme Court held that a person convicted of a federal offense had standing to assert that Congress exceeded its powers under the Tenth Amendment in enacting a criminal statute. However, the decision in *Bond* did not invalidate the federal statutes petitioner was convicted of violating. *Blodgett v. Martin*, 2011 WL 6187097 at \*1 (5th Cir. Dec. 14, 2011) (unpublished).

Petitioner also asserts that the writ of habeas corpus has been improperly suspended if relief is not available to him under 28 U.S.C. § 2255 or § 2241. However, this claim is without merit because the savings clause under § 2255 does not violate the Suspension Clause of the United States Constitution. *Wesson v. U.S. Penitentiary, Beaumont*, 305 F.3d 343, 346-47 (5th Cir. 2002).

**ORDER**

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment shall be entered dismissing the petition.

SIGNED at Beaumont, Texas, this 24th day of February, 2012.



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MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE